

**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE 10 - 28

BILL 42 (2010)

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**A BILL FOR AN ORDINANCE**

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REZONE LAND IN KAILUA, OAHU, HAWAII.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Zoning Map No. 23, Kailua – Lanikai - Keolu, Ordinance 86-124, is hereby amended as follows: Land situated at Kailua, Oahu, Hawaii hereinafter described, is hereby rezoned from R-5 Residential District to B-1 Neighborhood Business District with 40-foot height limit. The boundaries and area of said District shall be described as shown on the map attached hereto, marked Exhibit "A" and made a part hereof, and further identified as Tax Map Key 4-3-031:004.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.

DPP10Z-1.B10



CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

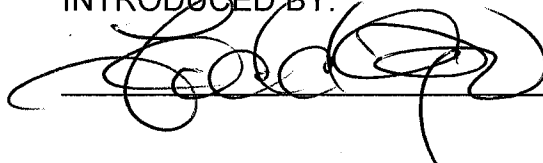
ORDINANCE 10 - 28

BILL 42 (2010)

A BILL FOR AN ORDINANCE

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:



(br)

5/18/2010 10:14 PM

5/18/2010 10:14 PM

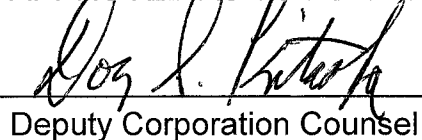
DATE OF INTRODUCTION:

**AUG 10 2010**

Honolulu, Hawaii

Councilmembers

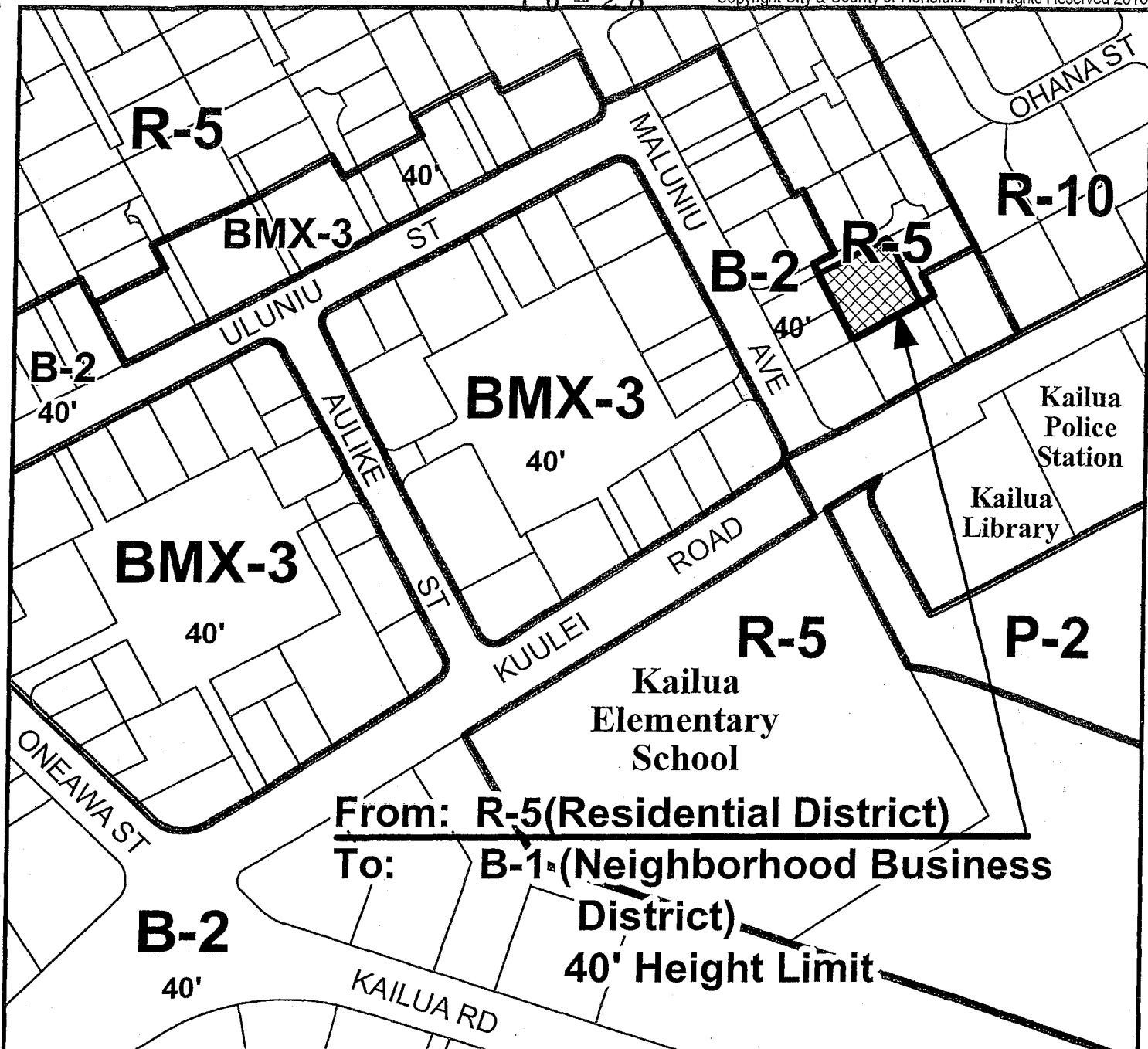
APPROVED AS TO FORM AND LEGALITY:

  
Deputy Corporation Counsel

APPROVED this 27th day of October, 2010.



~~KIRK W. GALDWELL, Acting Mayor~~ PETER B. CARLISLE, Mayor  
City and County of Honolulu



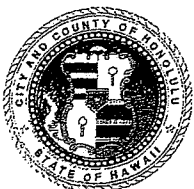
PORTION OF  
**ZONING MAP No. 23**  
 (KAILUA - LANIKAI - KEOLU)

Land situated approximately 140' northeast of the Kuulei Road/Malunui Avenue intersection.



0 100 200

Scale in Feet



APPLICANT: KAILUA HONGWANJI TEMPLE

TAX MAP KEY(S): 4-3-31: 04

FOLDER NO.: 2010/Z-1

LAND AREA: 10,014 S.F. (0.2298 Acres)

PREPARED BY: DEPARTMENT OF PLANNING & PERMITTING  
 CITY AND COUNTY OF HONOLULU

PUBLIC HEARING: PLANNING COMMISSION

CITY COUNCIL

ORD. NO.

10-28

JUL 21 2010

2010/Z-1

EFF. DATE: OCT 27 2010

EXHIBIT A

BILL 42 (2010)

OFFICE OF THE  
ASSISTANT REGISTRAR, LAND COURT  
STATE OF HAWAII  
(Bureau of Conveyances)

The original of this document was  
recorded as follows:

DOCUM Doc 4005989  
CTN 73,595  
DATE OCT 06, 2010 03:00 PM

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL (X) PICKUP ( ) TO:

Analytical Planning Consultants, Inc.  
928 Nuuanu Avenue, Suite 502  
Honolulu, Hawaii 96817

Page 1 of 7

TITLE OF DOCUMENT: Unilateral Agreement and Declaration for  
Conditional Zoning

PARTY TO DOCUMENT: Honpa Hongwanji Mission of Hawaii  
30-D Maluniu Avenue  
Kailua, Hawaii 96734

TAX MAP KEY NO. (1) 4-3-031: 004

**UNILATERAL AGREEMENT AND  
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 5<sup>th</sup> day of October, 2010, by Honpa Hongwanji Mission of Hawaii, whose address is 30-D Maluniu Avenue, Kailua, Hawaii 96734 (hereinafter referred to as the "Declarant",

**WITNESSETH:**

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Kailua, consisting of approximately 10,014 square-feet, described as Tax Map Key No. 4-3-031: 004, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to operate a meeting facility and daycare facility on the Land as permitted by the Land Use Ordinance (the "Project"); and

WHEREAS, the City Council (the "Council") of the City and County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from R-5 Residential District to B-1 Neighborhood Business District with a 40-foot height limit (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 42 (2010), was held by the Council on October 5, 2010; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 305 that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance");

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. The Declarant shall submit and obtain approval by the Department of Planning and Permitting (DPP), in consultation with the Department of Transportation Services (DTS), for the following:
  - a. A Construction Management Plan (CMP) prior to the issuance of demolition and/or building permits that identifies the type, frequency and routing of heavy vehicles and related construction activities. The CMP should include provisions to limit vehicular activity to periods outside of the peak periods of traffic, utilizing alternate routes for heavy trucks, provisions for a parking or staging area for construction workers,

and other mitigation measures related to traffic. The Declarant shall document the condition of roadways prior to the start of construction activities and provide remedial measures, as necessary, such as restriping, road resurfacing and/or reconstruction if the condition of the roadways has deteriorated as a result of the construction activities.

- b. Traffic and parking management plans should be prepared and submitted prior to the issuance of building permits. The Traffic Management Plan (TMP) should identify, in detail, Traffic Demand Management (TDM) strategies to minimize the amount of vehicles being generated by the site, such as carpooling, ride sharing, and transit incentives for employees and volunteers. The parking management plan should identify strategies to accommodate overflow parking and traffic control for large events, such as the bon dance and service, fairs and bazaars and weddings.
  - c. A new Traffic Impact Analysis Report (TIAR) should be required prior to the issuance of a building permit, if the intensity of use of the site increases significantly. With regard to traffic generation, significant increase in use of the site would be a change from church related activities to activities which are generally considered more commercial in nature. The cost to implement any new traffic mitigation measures identified in the new TIAR, which are directly attributable to the new use of the site, shall be borne by the Declarant.
  - d. One year after the Project is completed and occupied, an update to the TIAR, with actual traffic counts and a reanalysis of the traffic conditions on the surrounding streets, is to be submitted to validate the projected trip generation rates contained in the TIAR. The cost to implement traffic mitigation measures identified in the updated TIAR, which are directly attributable to the use of the site, shall be borne by the Declarant.
2. Except for the annual Bon dance, hours of operation shall be limited to the hours of 7:00 a.m. to 10:00 p.m. unless conducted in a sound-attenuated structure, or as provided by the LUO. The hours of operation shall be extended to 11:00 p.m. to accommodate the annual Bon dance.
  3. Except for access, the Declarant shall provide and maintain a 6-foot high wall, fence, or other screening along any property line adjoining a residential, apartment, or apartment mixed use district.

4. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. The status report shall be submitted to the DPP by December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied. Failure to do so may result in delays in processing of further permits.
5. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the Project comply with all applicable LUO and other governmental provisions and requirements.
6. In the event of noncompliance with any of the conditions set forth herein, the Director of Planning and Permitting shall inform the Council and may seek civil enforcement or take appropriate action to terminate or stop the Project until applicable conditions are met, including but not limited to revoking any permits issued under this zoning and withholding issuance of other permits related to Project. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

That the development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning

and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

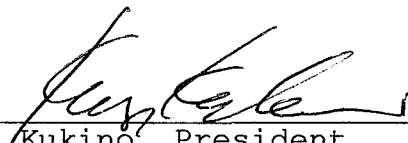
That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, the parties hereto have executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

DECLARANT:

HONPA HONGWANJI MISSION OF HAWAII

By   
Keiji Kukino, President

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STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

On this 5<sup>TH</sup> day of October, 2010, before me appeared Keiji Kukino, President of Honpa Hongwanji Mission of Hawaii, to me personally known, who, being by me dully sworn did say that Honpa Hongwanji Mission of Hawaii is the fee owner of that certain parcel of land described in Exhibit "A".

*OL-Lp*  
*OL* Palani Lopez  
 NOTARY PUBLIC CERTIFICATION  
 Palani Lopez First Judicial Circuit  
 Doc. Description: unilateral agreement  
and declaration for conditional zoning

No. of Pages: 7 Date of Doc. 10/5/10

Notary Signature \_\_\_\_\_ Date \_\_\_\_\_

Subscribed and sworn to before me this

5<sup>TH</sup> day of October, 20 10

*OL-Lp*

Notary Public, State of Hawaii

My commission expires Jun 7, 2013

LS

EXHIBIT "A"

All of those certain parcels of land situate at Kailua, Koolaulupoko, Island of Hawaii, State of Hawaii, described as follows:

LOT 673, area 5,007 square feet, together with an undivided one-sixth ( $1/6^{\text{th}}$ ) interest in Lot 680 Roadway, area 3,196.0 square feet, of the "Kailua Coconut Grove Tract - 3<sup>rd</sup> Series", as shown on Map 156 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 495 of Arthur Hyde Rice;

And LOT 674, area 5,007 square-feet, together with an undivided one-sixth ( $1/6^{\text{th}}$ ) interest in Lot 680 Roadway, area 3,196.0 square feet, of the "Kailua Coconut Grove Tract - 3<sup>rd</sup> Series", as shown on Map 156 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 495 of Arthur Hyde Rice;

Recorded in Transfer Certificate of Title No. 73,595 dated December 5, 1958.

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

ORDINANCE 10 - 28

BILL 42 (2010)

Introduced: 08/10/10 By: TODD APO (BR)

Committee: ZONING

Title: A BILL FOR AN ORDINANCE REZONE LAND IN KAILUA, OAHU, HAWAII.

Links: [BILL 42 \(2010\)](#)  
[CR-269](#)  
[CR-305](#)

COUNCIL	08/18/10	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING.
ANDERSON	Y	APO Y CACHOLA Y DELA CRUZ Y DONOHUE Y
GARCIA	Y	KOBAYASHI Y OKINO Y TAM Y
ZONING	08/31/10	CR-269 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING. CURRENT DEADLINE: 11/07/10.
PUBLISH	09/11/10	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
COUNCIL	09/22/10	CR-269 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING.
ANDERSON	Y	APO Y CACHOLA Y DELA CRUZ Y DONOHUE Y
GARCIA	Y	KOBAYASHI Y OKINO Y TAM Y
PUBLISH	09/30/10	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
ZONING	10/05/10	CR-305 - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING. (GRANTED A 90-DAY EXTENSION OF TIME (NEW DEADLINE: FEBRUARY 5, 2011)).
COUNCIL	10/13/10	CR-305 ADOPTED AND BILL 42 (2010) PASSED THIRD READING.
ANDERSON	Y	APO Y CACHOLA Y DELA CRUZ Y DONOHUE Y
GARCIA	Y	KOBAYASHI Y OKINO Y TAM Y

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.

  
BERNICE K. N. MAU, CITY CLERK

  
TODD K. APO, CHAIR AND PRESIDING OFFICER